

**From:** Charles Lee <Charles.Lee@midfirst.com> on 04/20/2004 09:47:45 PM  
**Subject:** Economic Growth and Regulatory Paperwork Reduction Act of 1996 Review

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April 19, 2004

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
Reserve System

Ms. Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal

1700 G Street NW  
Washington, D.C. 20552

20th Street and Constitution Avenue, NW  
Washington, DC 20551

Attention: No. 2003-67 and R-1180

To Whom It May Concern:

MidFirst Bank, a federally chartered savings association, is pleased for the opportunity to respond to the Interagency Request for Burden Reduction Regulations; Consumer Protection: Lending-Related Rules; Economic Growth and Regulatory Paperwork Reduction Act of 1996 Review (the "Request") as published in the January 21, 2004, *Federal Register* beginning on page 2852. Periodic reviews of such regulations afford the opportunity for regulations to be updated for changing conditions and products while eliminating duplicitous or unnecessary requirements. MidFirst supports streamlining the regulations including reducing number of lending disclosures and simplifying the content of the disclosures. To the extent practical, combining disclosures into a single form with common language affords the best value to both the consumer's need to receive meaningful, informative disclosures and the lender's need to provide the disclosures in a cost effective manner that the customer can understand. The current volume and detail of lending related disclosures, including required disclosures not included in the subject Request, accomplishes neither objective.

MidFirst notes that often Congress specifically required the banking agencies to develop standards and requirements that minimize the costs imposed on institutions in complying with the provisions. For example, the Home Mortgage Disclosure Act at 12 USC 2803(j)(7) states:

Minimizing compliance costs. In prescribing regulations under this subsection, the Board shall make every effort to minimize the costs incurred by a depository institution in complying with this subsection and such regulations.

MidFirst specifically requests reconsideration be given to the following:

- MidFirst requests reconsideration of the requirement to reflect the HOEPA status for HMDA loans purchased by a HMDA lender. Loans are purchased and sold by various parties for the full lives of the loans, often 30 years or more. Because loans were originated prior to the HOEPA rules, meaningful information and means of determining the HOEPA status may not be available. Further, in some cases, the complete loan files may not be transferred to the purchasing entity thereby precluding that entity from either identifying a loan as HOEPA or verifying another entity's claims regarding the HOEPA status of that loan. Further, potential concerns stemming from the origination of HOEPA loans will be identified by the originating lender through the originator's requirement to flag HOEPA loans. Any concerns a HOEPA loan might generate are established at the point of origination and not at the point of loan purchase; therefore, the appropriate point in time to monitor the HOEPA status is at the point of origination rather than at each subsequent purchase of that loan. The requirement to flag purchased loans as HOEPA is burdensome and exceeds any possible benefit to be derived from such reporting.
- Requiring both the HOEPA flag and the yield spread can be confusing to the users of reports. The intent is to identify loans potentially more prone to terms that are unfair or that are otherwise discriminatory in some manner. Prevention of discrimination is a laudable and important goal; however, utilizing these standards as proxies for a "predatory loan" can lead to inaccurate results. Neither HOEPA nor the yield spread has been shown to identify predatory loans in 100 percent of instances with no false positives returned.
- Although not included in the Request, MidFirst would suggest that, in addition to comparing the specific requirements of the subject regulations, consideration be given to the definitions, deadlines, disclosure content, and other requirements of other lending regulations to establish more consistent implementation of the regulations by lenders and more accurate understanding of the regulations by the public. While recognizing that the Real Estate Settlement Procedures Act and regulations is managed by Housing and Urban Development, this does not prevent the banking agencies from narrowing any regulatory discrepancies between the regulations subject to the Request and RESPA by modifying the subject regulations. To a degree, consistency has already been established; for example, the definition of dwelling in 12 CFR 226.2(a)(19) - Regulation Z and the definition of dwelling in 12 CFR 203.2(d) - HMDA or the definition of application in 12 CFR 202.2(f) - ECOA and the definition of application in 12 CFR 203.2(b) - HMDA, yet additional work can be done to further reduce differences.

MidFirst would be happy to respond to any questions.

Sincerely,

Charles R. Lee  
Vice President and  
Director of Bank Administration  
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